IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

In re the Application

Inventer	:	Van Doorn
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For	:	CONTROLLING APPLICATION DEVICES SIMULTANEOUSLY

APPEAL BRIEF

On Appeal from Group Art Unit 2623

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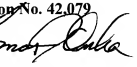

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I. REAL PARTY IN INTEREST

Koninklijke Philips Electronics N.V. is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF CLAIMS

As filed, this case included claims 1-19. Claims 1-19 remain pending, stand rejected, and form the basis of this appeal.

IV. STATUS OF AMENDMENTS

This appeal is in response to an Office Action, dated October 17, 2007 and a Final Office Action, dated April 4, 2008. Claims 1-19 stand rejected under 35 USC 103(a) as being anticipated by 35 U.S.C. 102(e) over Ficco et al. (USP 6,868,292, hereinafter Ficco). On January 17, 2007, an amendment in response to the Office Action dated October 17, 2007, was entered by the Examiner. On June 6, 2008, in response to the Final Office Action dated April 4, 2008, a request for reconsideration was entered.

On July 11, 2008, an Advisory Action was entered into the record. The Advisory Action stated that the arguments filed on July 17, 2007 are not persuasive. In response, a Notice of Appeal was filed on July 29, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention, particularly, independent claim 1 discloses a method of controlling application devices comprising retrieving first documents from a first set of application devices by a server, retrieving identification of a user by the server, (see page 1, lines 12-14), autonomously generating second documents by the server, each comprising at least one instruction, on the basis of at least a part of the retrieved identification of the user and at least a part of the first documents, sending at least one of the second documents to each device of a second set of the application devices by the server, and performing, for a given device of the second set, one instruction from at least one of the second documents received in the given device, (see page 2, lines 22-28).

Independent claim 5 discloses a system for controlling application devices comprising, means for retrieving first documents from a first set of application devices, means for retrieving identification of a user, (see page 1, lines 12-14), means for generating second documents, each comprising at least one instruction, on the basis of at least a part of the retrieved identification of the user and at least a part of the first documents, means for sending at least one of the second documents to each device of a second set of the application devices, and means for performing, for a given device of the second set, one instruction from at least one of the second documents received in the given device, (see page 4, lines 26-33).

Independent claim 12 discloses a system for controlling an application device comprising a server that is configured to retrieve first documents from a first set of application devices, retrieve identification of a user, (see page 1, lines 12-14), autonomously generate second documents, each comprising at least one instruction on the basis of at least a part of the retrieved identification of the user and at least a part of the first documents, and send at least one of the second documents to each device of a second set of the application devices for performing, at a given device of the second set, at least one instruction from at least one of the second documents received in the given device, (see page 4, lines 26-33, FIG. 5 and page 12, lines 10-21).

Claims 2-4 and 7-11 depend from independent claim 1 and recite further aspects of the invention claimed.

Claim 6 depends from independent claim 5 and recites further aspects of the invention claimed.

Claims 13-19 depend from independent claim 12 and recite further aspects of the invention claimed.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issue in the present mater is whether:

(1) Rejection of: Claims 1-19 under 35 USC 102(e) as being anticipated by Ficco et al. (USP 6,868,292, hereinafter "Ficco").

VII. ARGUMENT

(1) Rejection of claims 1-12

Appellants respectfully submit that the rejection of claims 1-19 under 35 USC 102(e) as being anticipated by Ficco et al. (USP 6,868,292, hereinafter "Ficco") is in error.

MPEP 2131 states:

> "A claim is anticipated only if ***each and every element*** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The ***identical invention*** must be shown in as ***complete detail*** as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Board of Patent Appeals and Interferences has consistently upheld the principle that the burden of establishing a prima facie case resides with the Office, and to meet this burden, the Examiner must specifically identify where each of the claimed elements are found in the prior art:

> "there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech, Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). To meet [the] burden of establishing a prima facie case of anticipation, the examiner must explain how the rejected claims are anticipated by pointing out where ***all*** of the specific limitations recited in the rejected claims are found in the prior art relied upon in the rejection." *Ex Parte Naoya Isoda*, Appeal No. 2005-2289, Application 10/064,508 (BPAI Opinion October 2005).

Claim 1, upon which claims 2-4 and 7-11 depend, claims a method that includes retrieving first documents from a first set of application devices by a server; retrieving an identification of a user by the server; autonomously generating second documents by the server, each comprising at least one instruction, on the basis of at least a part of the retrieved identification of the user and at least a part of the first documents; sending at least one of the second documents to each device of a second set of the application devices by the server; and performing, for a given device of the second set, one instruction from at least one of the second documents received in the given device. Claims 5 and claim 12, and their respective dependent claims, include similar limitations.

Ficco fails to teach generating second documents on the basis of at least a part of the retrieved identification of the user and at least a part of first documents and sending at least one of the second documents to each device of a second set of the application devices by the server, and performing, for a given device of the second set, one instruction from at least one of the second documents received in the given device.

The Final Office Action asserts that Ficco teaches generating second documents on the basis of at least a part of the retrieved identification of the user and at least a part of first documents and sending at least one of the second documents to each device of a second set of the application devices by the server. The Final Office Action asserts that Ficco provides this teaching at column 16, lines 1-4 and lines 62-67. The Appellant respectfully disagrees with this assertion. At the first cited text (column 16, lines 1-4), Ficco teaches:

> "Transmitter 910 may also include a high-frequency oscillator that generates a carrier wave, and a high-frequency mixer that modulates the carrier with the baseband signal to generate a narrowband transmit signal." (Ficco, column 16, lines 1-4)

As is evident, the cited text fails to teach generating second documents on the basis of at least a part of a retrieved identification of the user, as specifically claimed in claims 1, 5 and 12.

At the second cited text (column 16, lines 62-67), Ficco teaches:

> "This present invention is not limited to these methods of script selection. Alternatively, and instead of selecting scripts to be downloaded from the internet, STB 300 may be configured to receive scripts that are downloaded from a satellite system, and/or to receive ...from a satellite TV or cable provider..."

Although Ficco's script selection may be from second sources, it specifically fails to teach generating second documents on the basis of at least a part of a retrieved identification of the user, as specifically claimed in independent claims 1, 5 and 12.

Because Ficco fails to teach each of the elements of each of the Appellant's independent claims 1, 5 and 12, and because the Final Office Action fails to identify where Ficco provides the teachings of each of the elements of claims 1, 5 and 12, the Appellant respectfully maintains that the rejection of claims 1-19 under 35 U.S.C. 102(e) over Ficco is unfounded, per MPEP 2131, and should be withdrawn. Appellants respectfully submit that claims 1, 5, and 12 are allowable.

With regard to claims 2-4, 6-11, and 13-19 these claims depend from an independent claim discussed above, which have been shown to be allowable in view of the cited reference. Accordingly, each of claims 2-4, 6-11, and 13-19 are also allowable by virtue of its dependence from an allowable base claim.

VIII. CONCLUSION

In view of the above analysis, it is respectfully submitted that the referred to reference fails to anticipate the subject matter of any of the present claims. Therefore, reversal of all outstanding grounds of rejection is respectfully solicited.

Respectfully submitted,

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IX. CLAIMS APPENDIX

1. A method of controlling application devices comprising:

retrieving first documents from a first set of application devices by a server;

retrieving identification of a user by the server;

autonomously generating second documents by the server, each comprising at least one instruction, on the basis of at least a part of the retrieved identification of the user and at least a part of the first documents;

sending at least one of the second documents to each device of a second set of the application devices by the server; and

performing, for a given device of the second set, one instruction from at least one of the second documents received in the given device.

2. A method according to claim 1, characterized in that the step of retrieving identification of the user further comprises the steps of

retrieving user profile information based on the user identification by the server; and

retrieving context profile information relating to surroundings of the user by the server.

3. A method according to claim 1, characterized in that the documents comprise at least one of Hyper Text Markup Language, Scalable Vector Graphics, Resource Description Framework and Extensible Markup Language.

4. A method according to claim 1, characterized in that the application devices comprise at least one of Web tablet, set-top box, VCR, TV, PDA, lamp, coffee machine, radio, telephone, background wall, DVD player and electronic information panel.

5. A system for controlling application devices comprising:

means for retrieving first documents from a first set of application devices;

means for retrieving identification of a user;

means for generating second documents, each comprising at least one instruction, on the basis of at least a part of the retrieved identification of the user and at least a part of the first documents;

means for sending at least one of the second documents to each device of a second set of the application devices; and

means for performing, for a given device of the second set, one instruction from at least one of the second documents received in the given device.

6. A system, according to claim 5, characterized in that the means for retrieving identification of the user further comprises:

means for retrieving user profile information based on the user identification; and

means for retrieving context profile information relating to surroundings of the user.

7. A computer system for performing the method according to claim 1.

8. A computer program product comprising program code means stored on a computer readable medium for performing the method of claim 1 when the computer program is run on a computer.

9. A method according to claim 2, characterized in that the documents comprise at least one of Hyper Text Markup Language, Scalable Vector Graphics, Resource Description Framework and Extensible Markup Language.

10. A method according to claim 9, characterized in that the application devices comprise at least one of Web tablet, set-top box, VCR, TV, PDA, lamp, coffee machine, radio, telephone, background wall, DVD player and electronic information panel.

11. A method according to claim 2, characterized in that the application devices comprise at least one of Web tablet, set-top box, VCR, TV, PDA, lamp, coffee machine, radio, telephone, background wall, DVD player and electronic information panel.

12. A system for controlling an application device comprising

a server that is configured to:

retrieve first documents from a first set of application devices;

retrieve identification of a user;

autonomously generate second documents, each comprising at least one instruction on the basis of at least a part of the retrieved identification of the user and at least a part of the first documents; and

send at least one of the second documents to each device of a second set of the application devices for performing, at a given device of the second set, at least one instruction from at least one of the second documents received in the given device.

13. The system of claim 12, wherein the server is configured to retrieve the identification of the user by:

retrieving user profile information based on the user identification; and

retrieving context profile information relating to surroundings of the user.

14. The system of claim 13, wherein the documents comprise at least one of Hyper Text Markup Language, Scalable Vector Graphics, Resource Description Framework and Extensible Markup Language.

15. The system of claim 14, wherein the application devices comprise at least one of Web tablet, set-top box, VCR, TV, PDA, lamp, coffee machine, radio, telephone, background wall, DVD player and electronic information panel.

16. The system of claim 13, wherein the application devices comprise at least one of Web tablet, set-top box, VCR, TV, PDA, lamp, coffee machine, radio, telephone, background wall, DVD player and electronic information panel.

17. The system of claim 12, wherein the documents comprise at least one of Hyper Text Markup Language, Scalable Vector Graphics, Resource Description Framework and Extensible Markup Language.

18. The system of claim 17, characterized in that the application devices comprise at least one of Web tablet, set-top box, VCR, TV, PDA, lamp, coffee machine, radio, telephone, background wall, DVD player and electronic information panel.

19. The system of claim 12, characterized in that the application devices comprise at least one of Web tablet, set-top box, VCR, TV, PDA, lamp, coffee machine, radio, telephone, background wall, DVD player and electronic information panel.

X. EVIDENCE APPENDIX

No evidence has been submitted.

XI. RELATED PROCEEDINGS APPENDIX

There are no related proceedings.